

Assembly Bill No. 797

CHAPTER 461

An act to amend Sections 7072, 7084, and 7085 of, to add Sections 7072.5, 7085.5, and 15316 to, and to add and repeal Section 25536.3 of, the Government Code, relating to economic development.

[Approved by Governor September 23, 1997. Filed
with Secretary of State September 24, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

AB 797, Takasugi. Economic development.

(1) The Enterprise Zone Act authorizes a governing body to include a targeted employment area in an enterprise zone to encourage businesses to hire eligible residents of certain geographic areas.

This bill would authorize an enterprise zone jurisdiction that has designated a target employment area to request the redesignation of an area using more current census data, as specified.

(2) Under existing law, in evaluating proposals for contracts for services in excess of \$100,000, with a specified exception, the state is required to award 5% preference on the price submitted by state-based companies that certify that they shall perform the contract at a worksite located in an enterprise zone.

This bill would instead require the state to award the preference to state-based companies that certify that not less than 90% of the labor required to perform the contract shall be accomplished at a worksite located in an enterprise zone.

(3) Existing law requires the Trade and Commerce Agency to submit a report to the Legislature every 5 years that evaluates the effect of the enterprise zone program on employment, investment, and incomes, and on state and local tax revenues in designated enterprise zones.

This bill would require an enterprise zone governing body to provide information at the request of the agency as necessary for the agency to prepare this report.

(4) The bill would require the Franchise Tax Board to annually make available to the Trade and Commerce Agency and the Legislature information, by enterprise zone and city or county, on the dollar value of tax credits that are claimed each year by businesses.

(5) The bill would make findings and declarations regarding economic development corporations.

(6) Existing law prescribes various procedures for a county to sell or lease county property, but permits the board of supervisors to sell

or lease property in specified circumstances without compliance with those procedures by a $\frac{4}{5}$ vote of the board.

This bill would, until January 1, 2011, also authorize the Sacramento County Board of Supervisors, by a $\frac{4}{5}$ vote, to sell or enter into a lease, concession, or managerial contract involving property that the county has acquired from the federal government due to the closure of Mather Air Force Base or McClellan Air Force Base without complying with those procedures if specified conditions regarding reuse and county procedures have been met, or the board of supervisors makes a finding that the conditions were satisfied at the time the property was acquired from the federal government.

The people of the State of California do enact as follows:

SECTION 1. Section 7072 of the Government Code, as added by Chapter 955 of the Statutes of 1996, is amended to read:

7072. For purposes of this chapter, the following definitions shall apply:

(a) “Agency” means the Trade and Commerce Agency.

(b) “Date of original designation” means the earlier of the following:

(1) The date the eligible area receives designation as an enterprise zone by the agency pursuant to this chapter.

(2) In the case of an enterprise zone deemed designated pursuant to subdivision (e) of Section 7073, the date the enterprise zone or program area received original designation by the agency pursuant to Chapter 12.8 (commencing with Section 7070) or Chapter 12.9 (commencing with Section 7080), as those chapters read prior to January 1, 1997.

(c) “Eligible area” means either of the following:

(1) An area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070), as it read prior to January 1, 1997, or as a targeted economic development area, neighborhood development area, or program area pursuant to Chapter 12.9 (commencing with Section 7080), as it read prior to January 1, 1997.

(2) A geographic area that, based upon the determination of the agency, fulfills at least one of the following:

(A) The proposed geographic area meets the Urban Development Action Grant criteria of the United States Department of Housing and Urban Development.

(B) The area within the proposed zone has experienced plant closures within the past two years affecting more than 100 workers.

(C) The city or county has submitted material to the agency for a finding that the proposed geographic area meets criteria of economic distress related to those used in determining eligibility under the Urban Development Action Grant Program and is therefore an eligible area.

(D) The area within the proposed zone has a history of gang-related activity, whether or not crimes of violence have been committed.

(d) “Enterprise zone” means any area within a city, county, or city and county that is designated as such by the agency in accordance with the provisions of Section 7073.

(e) “Governing body” means a county board of supervisors or a city council, as appropriate.

(f) “High technology industries” include, but are not limited to, the computer, biological engineering, electronics, and telecommunications industries.

(g) “Resident,” unless otherwise defined, means a person whose principal place of residence is within a targeted employment area.

(h) “Targeted employment area” means an area within a city, county, or city and county that is composed solely of those census tracts designated by the United States Department of Housing and Urban Development as having at least 51 percent of its residents of low- or moderate-income levels, using either the most recent United States Department of Census data available at the time of the original enterprise zone application or the most recent census data available at the time the targeted employment area is designated to determine that eligibility. The purpose of a “targeted employment area” is to encourage businesses in an enterprise zone to hire eligible residents of certain geographic areas within a city, county, or city and county. A targeted employment area may be, but is not required to be, the same as all or part of an enterprise zone. A targeted employment area’s boundaries need not be contiguous. A targeted employment area does not need to encompass each eligible census tract within a city, county, or city and county. The governing body of each city, county or city and county that has jurisdiction of the enterprise zone shall identify those census tracts whose residents are in the most need of this employment targeting. Only those census tracts within the jurisdiction of the city, county, or city and county that has jurisdiction of the enterprise zone may be included in a targeted employment area.

At least a part of each eligible census tract within a targeted employment area shall be within the territorial jurisdiction of the city, county, or city and county that has jurisdiction for an enterprise zone. If an eligible census tract encompasses the territorial jurisdiction of two or more local governmental entities, all of those entities shall be a party to the designation of a targeted employment area. However, any one or more of those entities, by resolution or ordinance, may specify that it shall not participate in the application as an applicant, but shall agree to complete all actions stated within the application that apply to its jurisdiction, if the area is designated.

Each local governmental entity of each city, county, or city and county that has jurisdiction of an enterprise zone shall approve, by

resolution or ordinance, the boundaries of its targeted employment area, regardless of whether a census tract within the proposed targeted employment area is outside the jurisdiction of the local governmental entity.

SEC. 2. Section 7072.5 is added to the Government Code, to read:

7072.5. By April 1, 1998, a governing body that has already designated a target employment area may request, by a resolution of all cities or counties having jurisdiction over the enterprise zone, to redesignate the targeted employment area using more current census data. A targeted employment area shall be comprised of census tracts from only one decennial census.

SEC. 3. Section 7084 of the Government Code is amended to read:

7084. (a) Whenever the state prepares an invitation for bid for a contract for goods in excess of one hundred thousand dollars (\$100,000), except a contract in which the worksite is fixed by the provisions of the contract, the state shall award a 5-percent preference to California-based companies that certify under penalty of perjury that no less than 50 percent of the labor required to perform the contract shall be accomplished at a worksite or worksites located in an enterprise zone.

(b) In evaluating proposals for contracts for services in excess of one hundred thousand dollars (\$100,000), except a contract in which the worksite is fixed by the provisions of the contract, the state shall award a 5-percent preference on the price submitted by California-based companies that certify under penalty of perjury that not less than 90 percent of the labor required to perform the contract shall be accomplished at a worksite or worksites located in an enterprise zone.

(c) Where a bidder complies with subdivision (a) or (b), the state shall award a 1-percent preference for bidders who shall agree to hire persons living within a targeted employment area or are enterprise zone eligible employees equal to 5 to 9 percent of its work force during the period of contract performance; a 2-percent preference for bidders who shall agree to hire persons living within a targeted employment area or are enterprise zone eligible employees equal to 10 to 14 percent of its work force during the period of contract performance; a 3-percent preference for bidders who shall agree to hire persons living within a targeted employment area or are enterprise zone eligible employees equal to 15 to 19 percent of its work force during the period of contract performance; and a 4-percent preference for bidders who shall agree to hire persons living within a targeted employment area or are enterprise zone eligible employees equal to 20 or more percent of its work force during the period of contract performance.

(d) The maximum preference a bidder may be awarded pursuant to this chapter and any other provision of law shall be 15 percent.

However, in no case shall the maximum preference cost under this section exceed fifty thousand dollars (\$50,000) for any bid, nor shall the combined cost of preferences granted pursuant to this section and any other provision of law exceed one hundred thousand dollars (\$100,000). In those cases where the 15-percent cumulated preference cost would exceed the one hundred thousand dollar (\$100,000) maximum preference cost limit, the one hundred thousand dollar (\$100,000) maximum preference cost limit shall apply.

(e) Notwithstanding any other provision of this section, small business bidders qualified in accordance with Section 14838 shall have precedence over nonsmall business bidders in that the application of any bidder preference for which nonsmall business bidders may be eligible, including the preference contained in this section, shall not result in the denial of the award to a small business bidder. This subdivision shall apply to those cases where the small business bidder is the lowest responsible bidder, as well as to those cases where the small business bidder is eligible for award as the result of application of the 5-percent small business bidder preference.

(f) All state contracts issued to bidders who are awarded preferences under this section shall contain conditions to ensure that the contractor performs the contract at the location specified and meets any commitment to employ persons with high risk of unemployment.

(g) (1) A business that requests and is given the preference provided for in subdivision (a) or (b) by reason of having furnished a false certification, and that by reason of this certification has been awarded a contract to which it would not otherwise have been entitled, shall be subject to all of the following:

(A) Pay to the state any difference between the contract amount and what the state's cost would have been if the contract had been properly awarded.

(B) In addition to the amount specified in subparagraph (A), be assessed a penalty in an amount of not more than 10 percent of the amount of the contract involved.

(C) Be ineligible to transact any business with the state for a period of not less than three months and not more than 24 months.

(2) Prior to the imposition of any sanction under this subdivision, the business shall be entitled to a public hearing and to five days' notice of the time and place thereof. The notice shall state the reasons for the hearing.

(h) In each instance in this section an enterprise zone shall also mean any enterprise zone or program area previously authorized under any other provision of state law.

(i) As used in this section, "enterprise zone eligible employees" means employees who meet any of the requirements of clause (iv)

of subparagraph (A) of paragraph (4) of subdivision (b) of Section 17053.74, or clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b) of Section 23622.5 of the Revenue and Taxation Code.

SEC. 4. Section 7085 of the Government Code is amended to read:

7085. (a) The agency shall submit a report to the Legislature every five years beginning January 1, 1998, that evaluates the effect of the program on employment, investment, and incomes, and on state and local tax revenues in designated enterprise zones. The report shall include an agency review of the progress and effectiveness of each enterprise zone. The Franchise Tax Board shall make available to the agency and the Legislature aggregate information on the dollar value of enterprise zone tax credits that are claimed each year by businesses.

(b) An enterprise zone governing body shall provide information at the request of the agency as necessary for the agency to prepare the report required pursuant to subdivision (a).

SEC. 5. Section 7085.5 is added to the Government Code, to read:

7085.5. The Franchise Tax Board shall annually make available to the agency and the Legislature information, by enterprise zone and by city or county, on the dollar value of the enterprise zone tax credits that are claimed each year by businesses and shall design and distribute forms and instructions that will allow the following information to be accessible:

(a) The number of jobs for which the hiring credits are claimed.

(b) The number of new employees for which hiring credits are claimed.

(c) The number of businesses claiming each individual tax credit.

(d) The nature of the business claiming each individual tax credit.

(e) The distribution of zone tax incentives among industry groups.

(f) The distribution of zone tax incentives by the annual receipts and asset value of the business claiming each individual tax credit.

(g) Any other information that the Franchise Tax Board and the agency deem to be important in determining the cost to, and benefit derived by, the taxpayers of the state.

SEC. 6. Section 15316 is added to the Government Code, to read:

15316. (a) The Legislature hereby finds and declares that economic development corporations are an integral component of the state's job creation effort because they are a critical link between the state's primary agency for economic development, the Trade and Commerce Agency, and the statewide business community, providing excellent leverage of the state's resources. Economic development corporations provide broad public benefit to the residents of this state by helping to alleviate unemployment, encouraging private investment, and diversifying local economies.

(b) "Economic development corporations" mean local and regional nonprofit organizations of public and private cooperation

whose activities further the economic development of the communities they serve. Economic development corporations engage in a wide range of programs and strategies to attract, retain, and expand business. These may include marketing the community, small business lending, and other financial services, a wide range of technical assistance to small business, preparation of economic data, and business advocacy.

SEC. 7. Section 25536.3 is added to the Government Code, to read:

25536.3. (a) In addition to the authority provided in Section 25536, the Sacramento County Board of Supervisors, by a four-fifths vote of the board, may sell or enter into a lease, concession, or managerial contract involving a specified area of county property that the county has acquired from the federal government due to the closure of Mather Air Force Base or McClellan Air Force Base without complying with this article if all of the following conditions have been met, or the board of supervisors makes a finding in a noticed public hearing that these conditions were satisfied at the time the property was acquired from the federal government:

(1) Reuse of the property is governed solely by the county and no part of the property is included in a redevelopment area.

(2) The county has prepared and adopted a general plan or specific plan pursuant to Article 5 (commencing with Section 65300) of Chapter 3 of Division 1 of Title 7, adopted a zoning ordinance for the area, and the proposed use is consistent with that general plan or specific plan and the zoning ordinance.

(3) The airport land use commission has prepared and adopted a comprehensive airport land use plan for the area pursuant to Article 3.5 (commencing with Section 21670) of Part 1 of Division 9 of the Public Utilities Code and the proposed use is consistent with that plan.

(4) The county has complied with Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 and Section 65402 with regard to the property, as provided by Section 25350.1.

(5) Notice is given pursuant to Section 6062a and posted in the office of the county clerk. The notice shall specify the date that the board determines any of the affected property will be subject to this section, and shall describe the property proposed to be sold, leased, or subject to a concession or managerial contract pursuant to this section; the proposed terms; the location where offers will be accepted and executed; and the telephone number and address of the county officer responsible for executing the sale, lease, concession, or managerial contract.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

SEC. 8. The Legislature hereby finds and declares that a special statute is necessary and that a general statute cannot be made applicable, within the meaning of Section 16 of Article IV of the California Constitution, because of unique circumstances applicable to Sacramento County. Sacramento County has been adversely affected by base closures and areas have been identified within Mather Air Force Base and McClellan Air Force Base where the board of supervisors needs to sell, lease, and allow a concession or managerial contract in a manner that allows for coordinated development of the area. In order to respond to this need, a special statute is needed and a general statute cannot be made applicable.

